

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF ILLINOIS

JOSEPH LUCAS,

Plaintiff,

v.

Case No. 3:23-cv-56

BLANKENSHIP CONSTRUCTION CO.;

DOUG BLANKENSHIP; and

NATHAN MARLEN, individually

and in his capacity as Trustee of the

James E. Marlen and JoAnn Marlen

Declaration of Trust, Dated January 27,

2010,

Defendants.

**PLAINTIFF'S RULE 26 EXPERT DISCLOSURE**

Plaintiff Joseph Lucas hereby discloses the identity of the following witness who Lucas may use at trial to present evidence under Federal Rule of Evidence 702, 703, or 705: Mark Halpin of Davey Resource Group, Inc. Mr. Halpin's signed, written report is attached hereto.

Dated: February 1, 2024.

Respectfully submitted,

POLSINELLI PC

By: /s/ Britton St. Onge

Britton St. Onge

Jon A Bierman (*pro hac vice*)

100 S. Fourth Street, Suite 1000

St. Louis, MO 63102

Tel. 314.889.8000

Fax: 314.231.1776

bstonge@polsinelli.com

jbierman@polsinelli.com

*Attorneys for Plaintiff Joseph Lucas*

### CERTIFICATE OF SERVICE

I hereby certify that on February 1, 2024, I electronically mailed the foregoing to the following:

Jeffrey A. Mollet  
Thomas G. DeVore  
Silver Lake Group, Ltd.  
560 Suppiger Way  
P.O. Box 188  
Highland, IL 62249  
[jeff@silverlakelaw.com](mailto:jeff@silverlakelaw.com)  
[tom@silverlakelaw.com](mailto:tom@silverlakelaw.com)

*Attorneys for Defendants Blankenship  
Construction Company and Doug  
Blankenship*

John P. Cunningham, #6193598  
BROWN & JAMES, P.C.  
Richland Plaza I, 525 W. Main St., Ste. 200  
Belleville, IL 62220-1547  
[jcunningham@bjpc.com](mailto:jcunningham@bjpc.com)

Joseph A. Bleyer, #6193192  
BLEYER AND BLEYER  
601 West Jackson Street  
P.O. Box 487  
Marion, IL 62959-0487  
[jableyer@bleyerlaw.com](mailto:jableyer@bleyerlaw.com)

*Attorneys for Defendant Nathan Marlen*

/s/Britton St. Onge



**Corporate Headquarters**  
295 South Water Street, Suite 300  
Kent, OH 44240  
800.828.8312

**Local Office**  
4978 Magnolia Avenue  
St. Louis, MO 63139  
314-484-6926

**January 31, 2024**

**Joseph Lucas**  
2740 English Road  
Pacific, MO 63069  
joe.lucas@straubs.com

## Tree Density and Loss Assessment Report

On January 31, 2024 I visited the property located at Parcel: 14-10-34-300-006, RR. Brownstown, IL 62418, to assess damages in terms of tree loss. Mr. Lucas showed me the area of disturbance and expressed that his desire was to obtain an estimate of the total number of trees that had been removed.

The standard method in the forestry and arboriculture industry for determining tree stand density is measuring Trees Per Acre (TPA). The more common metric of Basal Area (BA) is only applicable when trees are being valued as a timber resource. The trees on the client's property were not being managed or harvested as a timber resource; the property's use is for hunting and the trees' service was therefore as deer habitat. As such considerations of BA are irrelevant, and TPA is the relevant metric.

Counting the total number of trees in an acre is not practical in most landscapes, therefore tree data in sample plots is collected and multiplied by an Expansion Factor - for example if a sample plot of a size equivalent to 1/100th of an acre is used, the Expansion Factor is 100. Because trees are not distributed evenly over an entire acre, multiple sample plots should be used to obtain an accurate representation of the entire area being assessed.

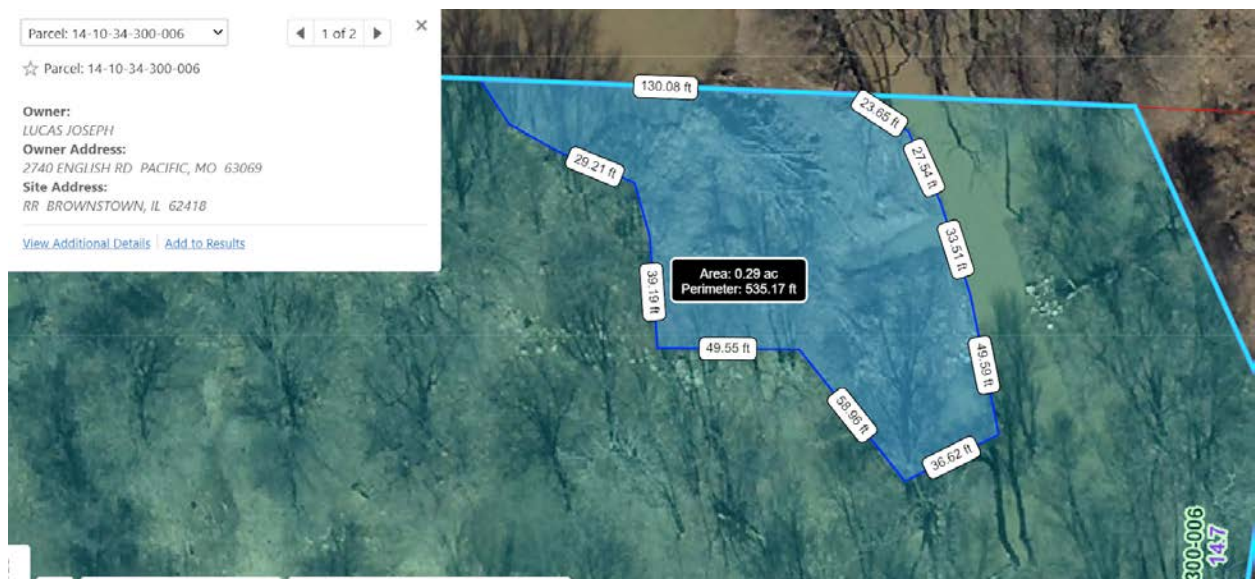
I used 8 sample plots of 1/100th acre. Plots were selected to represent the general tree coverage of the area, which ranged from quite dense to wide open in certain small sections. Plots were measured as a circle with a radius of 11.8'. A forestry measuring tape was affixed to a tree at the center of the plot and the outermost trees in the plot were determined and marked with colored cord. The outer trees, centerpoint tree, and all trees within the plot were counted. Individual plot density varied from 25 trees to 0 trees. **Total TPA was calculated as 900. This figure is reasonable for a highly productive forest (rich alluvial soil) of fast-growing bottomland species such as is present on the client's property.** Size class was not collected but generally varied from 2-24", with red and silver maple, green ash, and cottonwood being the dominant species. Results are shown in Fig. 1 below:

Trees Per Acre (TPA) - Parcel: 14-10-34-300-006, RR BROWNSTOWN, IL 62418	
Plot Number	Trees in Plot
1	12

2	12
3	8
4	25
5	15
6	0
7	0
8	0
<b>Total Trees</b>	<b>72</b>
<b>Total x Expansion Factor (100)</b>	<b>7200</b>
<b>Divided By Plot Total (8)</b>	<b>900</b>
<b>Average TPA</b>	<b>900</b>
<b>TPA x Area of Disturbance (.29)</b>	<b>261</b>
<b>Est. Total Trees Removed</b>	<b>261</b>

*Fig. 1 - Plot numbers, trees per plot, and calculations to determine total trees removed.*

Determining the total disturbed area on the client's property was difficult as no surveying flags were present; based on aerial imagery and Illinois County GIS Resources' website (<https://www.gis2gps.com/GIS/illcounties/illcounties.html>) I conservatively estimated the area at .29 acres, using the area measurement tool on the website. Fig 2 shows the area - note that tree shadows are cast to the north on this image and so canopy images appear in the cleared area despite trees not being present. The figure of .29 acres is therefore a rough estimate; surveying equipment would be required to determine the true area of disturbed land.



*Figure 2 shows the cleared area - the piled debris of removed trees is located in the top center of the highlighted area.*

Based on the data collected, the calculations shown in Figure 1, and the area estimate derived from Figure 2, **I estimate the total number of trees removed from Mr. Lucas's property to be 261.**

I have a high degree of confidence in the TPA figure; calculating TPA is a standard practice that is simple and intuitive, and widely accepted in the industry. I am confident that the disturbed area, as shown to me by Mr. Lucas, is accurately represented in the area highlighted on Fig. 2, with a possible variance of no more than 20% to account for the inherent difficulties of matching wooded topography displayed with an aerial photograph to the on-the-ground reality. **Therefore, I have a high degree of confidence in a figure of between 209-313 trees having been present on the disturbed land, based on my calculations of TPA, my measurement of the area, and my assumptions regarding the potential inaccuracies of the area measurements performed without surveying equipment.**

### Sample Plots 1-8



Plot 1



Plot 2



Plot 3



Plot 4



Plot 5



Plot 6



Plot 7



Plot 8

*The above 8 photographs show the individual plots and attempt to capture the basic methodology - measuring out from a centerpoint tree and marking outermost trees, when necessary.*

## TPA Report Addendum

I have been asked to supply the following additional items:

- a complete statement of his opinions and the basis and reasons for them - provided in the body of the report
- the facts or data he considered in forming his opinions - provided in the body of the report
- any exhibits that will be used to summarize or support his opinions - provided in the body of the report
- his qualifications – a resume is fine – including any publications he’s authored in the last 10 years - resume attached as separate PDF. Publications = served as editor and major contributor to the Forestkeepers Network’s newsletter ‘The Leaflet’ for 16 months. Authored a weekly ‘Tree of the Week’ blog that was compiled into a limited-run book by the Missouri Department of Conservation and Forest ReLeaf. Both of these tasks were completed during my time as Forestry Manager for Forest ReLeaf of Missouri.

- a list of all other cases in which, during the previous 4 years, he has testified as an expert at trial or by deposition - served as expert witness in a case of damage to multiple trees due to road construction for Mike West, 245 Great Oak Drive, Arnold, Missouri 63010, represented by Michael P. Herrmann, of McCarthy, Leonard & Kaemmerer, L.C., 825 Maryville Centre Drive, Suite 300, Town & Country, Missouri 63017-5946, in Jefferson County, MO.
- a statement of the compensation to be paid for the study and testimony in the case. The fee for my report is \$1,500 lump sum. Expert witness testimony, if needed, will be priced at \$220/hour.

Prepared by:



**Mark Halpin, Urban Forestry Consultant**  
ISA Certified Arborist, MW-5395A (TRAQ)  
Davey Resource Group, Inc.  
[www.daveyresourcegroup.com](http://www.daveyresourcegroup.com)



## Mark Halpin

### *Consulting Arborist*

Mark Halpin joined Davey Resource Group (DRG) as a consulting arborist. Prior to joining DRG, Mark served 14 years in the natural resources industry, providing services in private landscaping, retail and wholesale nursery work, public parks and gardens maintenance, ornamental horticulture, natural area restoration, native landscaping, arboriculture, urban forestry, municipal forestry, non-profit forestry programs management, private consulting, and plant health care.

Throughout his career, Mark has served in maintenance, plan preparation, and urban forestry roles. Mark served as a Horticulturist in Forest Park, providing maintenance of 123 acres, including reforestation efforts, tree pruning, natural area restoration, and invasive species control. He was the Urban Forester for the City of Brentwood, where he developed an Emerald Ash Borer (EAB) Management Plan, implemented with the help of Missouri Department of Conservation TRIM Grant, and helped to revise the city tree ordinance.

Mark participated in the restoration of the Oak-Hickory forest in Brentwood's Memorial Park with the Missouri Department of Conservation's Community Conservation Grant. Also, during his time at Forest ReLeaf of Missouri, he managed all tree planting programs, partner consultations, technical expertise needs and educational programs.

For his dedication to urban forestry and services in natural areas restoration, Mark received the Midwest International Society of Arboriculture's Award of Merit in 2021 and the Missouri Community Forestry Council's Arbor Award of Excellence in 2018.

### Education

- A.S., Applied Science—Horticulture, St. Louis Community College—Meramec

### Certifications

- Certified Arborist (#MW-5395A), International Society of Arboriculture (ISA)
- Tree Risk Assessment Qualification (TRAQ), ISA
- Certified Missouri Pesticide Applicator (#N5972), Missouri Department of Agriculture
- Adult First Aid/CPR/AED, American Red Cross

### Special Training

- Precision Tree Felling Training
- Project Learning Tree
- Former NAI Interpretive Guide

### Professional Affiliations

- Missouri Community Forestry Council—St. Louis Chapter, Chairman (2018–Current)